

Internal Revenue Service

Department of the Treasury

District  
Director

Employer Identification Number:

Person to Contact:

Telephone Number:

Refer Reply to:

Internal Revenue Service

CERTIFIED

Date: SEP 28 1992

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986.

The information submitted discloses that you were incorporated on under the nonprofit corporation laws of the State of .

The purpose of your organization as stated in your Articles of Incorporation is to "promote, encourage, and foster a continuous need for the development of artistic talent in dance within the community" and to "sponsor inner city children in dance with classes, proper attire and shoes." Your Articles of Amendment dated further stated that the corporation is "organized exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code."

According to information provided in Form 1023, you indicated that the primary activity of your organization is fund-raising. The purpose of this fund-raising is to accumulate funds which are to be contributed to the to be used for the repairs and maintenance of the physical property. A long range goal of your organization is to provide scholarships which would cover the costs of tuition, costumes, supplies, and performances of students of the School.

Your main fund-raising efforts consist of an annual winter "formal" and an annual spring cotillion. You also sell concessions once a week at the . These fund-raisers and membership dues are your sources of financial support. Your organization is comprised of and limited to parents of students at the school and friends of the school who are interested in the continuation of and future recipients of scholarships at that school. The actual and projected budgets show only fund-raising expenses and no charitable contributions being made for the next several years.

9/22/92

9/28/92

In a developmental letter to your organization dated [REDACTED], you were asked to provide proof of the exempt status of the School under Section 501(c)(3) of the Code and you were also asked to explain why your projected budget shows no indication of any charitable outlays being made over the next few years. Your response, in a letter dated [REDACTED] was that the [REDACTED] was not tax exempt under any code section. You further stated that your organization has allocated \$[REDACTED] to be given to the School to build a reception area to be used by parents and children who are waiting for the beginning and ending of various classes. You indicated that future planned contributions include "repairs of the physical building and replacement of such essential equipment as mirrors, barrels, etc.". In the course of several telephone conversations with an officer of your organization, [REDACTED], it was indicated to us that the School was being operated as a for-profit entity. There are no plans for the School to apply for tax exempt status at this time.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of corporations organized and operated exclusively for religious, charitable, literary, scientific, and educational purposes; no part of the net earnings of which inures to any private shareholder or individual.

Section 1.501(c)(3)-1 of the Income Tax Regulations relates to the definition of the organization and operation of organizations described in Section 501(c)(3). It is quoted, in part, as follows:

"(a) Organizational and operational tests. (1) In order to be exempt as an organization described in Section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt. (2) The term "exempt purpose or purposes", as used in this section, means any purpose or purposes specified in Section 501(c)(3)...."

"(c) Operational test. (1) Primary activities. An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. (2) Distribution of earnings. An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals..."

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized and operated exclusively for exempt purposes unless it serves a public rather than a private interest. Thus, it is necessary for an organization seeking exemption under Section 501(c)(3) to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

In order for an organization to be exempt that has as its primary activity the provision of financial support to another entity there must be an exclusively charitable purpose being served. In the case of your organization the private interests of the "owner" of the nonexempt School are being served in that your organization will make repairs, do maintenance, build a reception area, replace mirrors and barrels to property that is not owned by an organization described in Section 501(c)(3) of the Internal Revenue Code. Moreover, the

provision of scholarships for the students to attend that particular School could serve a noncharitable as well as a charitable purpose in that it provides a source of revenue to a nonexempt business entity.

Accordingly, we have concluded that you are not entitled to recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Code, since you are not organized and operated exclusively for charitable, religious, or other exempt purposes within the meaning of Section 501(c)(3).

You are required to file Federal Income Tax Returns.

Contributions made to you are not deductible by the donors as charitable contributions as defined in Section 170(c) of the Code.

If you do not agree with these conclusions, you may within 30 days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after you have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

If you do not protest this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service".

Please keep this determination letter in your permanent records.

If you agree with this determination, please sign and return the enclosed Form 6018.

If we do not hear from you within 30 days from the date of this letter, this determination will become final. In accordance with Code Section 6104(c), we will notify the appropriate State officials of this action.

Sincerely yours,

District Director

Enclosures:  
Publication 892  
Form 6018